

# ANALYSIS OF ORIGINAL BILL

## Franchise Tax Board

Author: Laird Analyst: Rachel Coco Bill Number: AB 2722  
Related Bills: See Legislative History Telephone: 845-4328 Introduced Date: February 20, 2004  
Attorney: Patrick Kusiak Sponsor: \_\_\_\_\_

**SUBJECT:** Natural Heritage Preservation Tax Credit/State Entity Property Acquisitions/Bond Funds/FTB Provide Information Regarding Credits Claimed

### SUMMARY

For purposes of the Natural Heritage Preservation tax credit, this bill would:

- allow bond funds to be used as a reimbursement mechanism for the General Fund (GF),
- require signed authorization by the taxpayer for the Franchise Tax Board (FTB) to disclose certain confidential taxpayer information to the Wildlife Conservation Board (WCB), and
- require FTB to report to the WCB the amount of the tax credit claimed by each taxpayer for purposes of reimbursing the GF.

### PURPOSE OF THE BILL

According to the author's staff, the purpose of this bill is to allow funds from state bonds to be used to reimburse the GF for losses attributable to the Natural Heritage Preservation tax credit.

### EFFECTIVE/OPERATIVE DATE

This bill would be effective and operative January 1, 2005.

### POSITION

Pending.

### ANALYSIS

#### FEDERAL/STATE LAW

Under the California Public Resources Code (PRC), the Natural Heritage Preservation Tax Credit Act of 2000 was established to encourage donations of land to the state, to local governments, or to designated nonprofit organizations. The donated property must be approved for acceptance by the WCB, which notifies FTB of the amount of tax credit awarded for each donation.

Under the PRC, the WCB has the authority to award no more than a total of \$100 million in preservation tax credits beginning with fiscal year 2000/2001. The WCB may not award preservation tax credits after fiscal year 2004/2005 without further statutory authorization.

#### Board Position:

|          |           |                      |
|----------|-----------|----------------------|
| _____ S  | _____ NA  | _____ NP             |
| _____ SA | _____ O   | _____ NAR            |
| _____ N  | _____ OUA | <u>  X  </u> PENDING |

#### Department Director

#### Date

Gerald H. Goldberg

4/8/04

Under the Revenue and Taxation Code (R&TC), a taxpayer is allowed an income tax credit of up to 55% of the donated property's fair market value. Any unused credit may be carried over for up to seven years.

Due to budget constraints, the credit was suspended for fiscal year 2002/2003. The suspension of the credit ended July 1, 2003; however, the WCB has not accepted any new applications or awarded any new credits since the suspension ended.

#### Current Practice

Currently, the WCB, under a memorandum of understanding, provides FTB with certain information regarding the Natural Heritage Preservation tax credits that it awards. Specifically, the WCB provides the department with the donor/taxpayer's name, identification number, a description of the donated property, and a project or tax certificate number. Additionally, the donor/taxpayer provides the department with certain information, including the donor's name as shown on the certificate and type of donated property. Under current practice, FTB is not required to provide the WCB with any information regarding the taxpayer or the amount of the credit claimed.

#### THIS BILL

This bill would allow the use of bond funds to acquire property donated pursuant to the Natural Heritage Preservation Tax Credit Act. The bond funds would be used to reimburse the GF for the amount of the tax credit allowed for the acquired property. The department or local agency acquiring the donated property would be required to make the reimbursement by transferring the bond funds to the Natural Heritage Tax Credit Reimbursement Account created within the GF by this bill. The transfer would be made based on information provided by FTB regarding the amount of the Natural Heritage Preservation tax credit claimed by individual taxpayers in that tax year.

This bill would specify that the application of the prospective donor shall not be accepted unless it includes signed authorization allowing FTB to disclose to the WCB information necessary for the reimbursement of the GF. The signed authorization would be in a form and manner mutually agreeable to FTB and the WCB.

For purposes of reimbursing the GF, this bill would require FTB to provide the WCB annually with the amount of the Natural Heritage Preservation tax credit claimed by individual taxpayers during that year.

#### IMPLEMENTATION CONSIDERATIONS

Implementing this bill would not significantly impact the department.

#### **LEGISLATIVE HISTORY**

AB 1502 (Laird, 2003/04) contained the same language as this bill. AB 1502 failed to pass out of the house of origin by the constitutional deadline.

SB 1052 (Budget & Fiscal Review Committee, 2003/04) would limit award of the Natural Heritage Preservation tax credits to fiscal years 2000/2001 and 2001/2002. In addition, SB 1052 would limit the tax credits to contributions of property made prior to December 31, 2002. SB 1052 is currently in the Assembly third reading.

AB 238 (Oropeza, 2003/04) and AB 2097 (Oropeza, 2003/04) would extend the years during which the Natural Heritage Preservation tax credit may be awarded and claimed. AB 238 failed to pass out of the house of origin by the constitutional deadline. AB 2097 is currently in the Assembly Rules Committee.

AB 3009 (Budget Committee, Stats. 2002, Ch. 1033) suspended the authority of the Wildlife Conservation Board to award Natural Heritage Preservation tax credits between July 1, 2002, and June 30, 2003, inclusive.

SB 1647 (O'Connell, Stats. 2000, Ch. 113) established the Natural Heritage Preservation Tax Credit Act of 2000 in the PRC and established the tax credits within the R&TC.

## **OTHER STATES' INFORMATION**

Review of *Florida, Illinois, Massachusetts, Michigan, Minnesota, and New York* tax information found no credit similar to the Natural Heritage Preservation tax credit, and thus, no comparable revenue reimbursement provision. These states were selected due to their similarities to California's economy, business entity types, and tax laws.

## **FISCAL IMPACT**

This bill would not impact the department's costs.

## **ECONOMIC IMPACT**

### Revenue Discussion

The amount of the Natural Heritage Preservation tax credits to be awarded or claimed remains unchanged by this bill. Therefore, there would be no impact to state tax revenue.

## **ARGUMENTS/POLICY CONCERNS**

Ideally, the GF reimbursement would be made in the same fiscal year the credit is claimed. However, due to various filing dates for fiscal and calendar year taxpayers and since amended returns may be filed in subsequent tax years, reimbursing the GF in the same fiscal year the credit is claimed would be unlikely.

## **LEGISLATIVE STAFF CONTACT**

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